(B)

cf 201

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH

AT BILASPUR

C.R.No. ...90...../2003

1. Smt. Sunder Devi Aged 85 years,
   Wd. of Late Rambharos
   Resident of Link Road, Bilaspur
   Tah. & Distt. Bilaspur (C.G.)

2. Raghuveer Aged 55 years
   Son of Late Rambharos,
   Railway Employee
   Resident of Link Road, Bilaspur
   Tah. & Distt. Bilaspur (C.G.)

P. R. No. 497/03
Presented by Shri Ashok Soni
dated 25.02.03

3. Balbeer Aged 55 years
   Son of Late Rambharos,
   Employee of Telecom Department,
   Resident of Link Road, Bilaspur
   Tah. & Distt. Bilaspur (C.G.)

4. Jagdish Aged 44 years
   Son of Late Rambharos,
   Sertiliger Employee
   Resident of Link Road, Bilaspur
   Tah. & Distt. Bilaspur (C.G.)

CERTIFIED COPY,
25/2/03
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5. Satish Kumar Aged 35 years
   Son of Late Rambharos,
   S.T.D. P.C.O. Owner
   Resident of Link Road, Bilaspur
   Tah. & Distt. Bilaspur (C.G.)

V.D Banerjee
Counsel for
Applicants
25/2/2003

(4)

6. Rajesh Kumar Aged 32 years
Son of Late Rambharos,
C.S.E.B. Employee
Resident of Link Road, Bilaspur
Tah. & Distt. Bilaspur (C.G.)

7. Smt. Chandra Devi Aged 50 years,
Wife of Umashanker
Resident of Link Road, Bilaspur
Tah. & Distt. Bilaspur (C.G.)

8. Smt. Geeta Devi Aged 45 years,
Daughter of Late Rambharos
Resident of Link Road, Bilaspur
Tah. & Distt. Bilaspur (C.G.)

9. Kumari Pushpa Aged 37 years,
Daughter of Late Rambharos
Resident of Link Road, Bilaspur
Tah. & Distt. Bilaspur (C.G.)

.....Applicants/Defendants

VERSUS

1. Chhotelal Aged about 73 years
Son of Manjhi
Resident of Magarpara Chowk, Bilaspur
Tah. & Distt. Bilaspur (C.G.)

2. Laxmi Aged about 46 years
Son of Late Rampyare
Resident of Vinoba Nagar
Near Gayatri Mandir Bilaspur
Tah. & Distt. Bilaspur (C.G.)

V. D. Biswas
Counsel for Applicants
25-2-2003

(5)

3. Koushal Aged about 40 years
Son of Late Rampyare
Resident of Deepupara, Bilaspur
Tah. & Distt. Bilaspur (C.G.)

4. State of Chhattisgarh
Through Collector Bilaspur

.....Non-Applicants/Plaintiff
Defendants

APPLICATION UNDER SECTION 115 CIVIL PROCEDURE CODE

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(21)

आदेश पत्रक

मामला क्रमांक C.R.No. 90/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	26/04/2003 Shri V.D. Bajpai, Sr. Counsel with Shri Ashok Soni, for the applicant. Having heard learned counsel, the Court is not inclined to entertain this revision petition Admittedly, non-applicant no.1 – Chhotelal had filed the suit against the applicants and sought permission to sue as an indigent person. The said application (M.J.C.No.3/95) was listed for hearing on 03/07/1996. However, when the mater was called, as the record indicates, the applicant was not present. Accordingly, the said M.J.C.No.3/95 was dismissed. The same day an application for recalling the order of dismissal and restoring the said M.J.C.No.3/95 was filed. The impugned order also indicates that the order sheet dated 03/07/1996 bears the signature of non-applicant no.1 – Chhotelal. The trial Court rejected the application filed by the applicants and Miscellaneous Civil Appeal No. 6/2002 filed by the non-applicant no.1 – Chhotelal has been allowed by the Court below on the ground that there was sufficient cause for non-appearance and consequently the	

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

application to sue as an indigent person has been restored to file. That order is the subject matter of challenge in this revision petition.

In the facts and circumstances of the case, the order suffers from no jurisdictional error. That apart, the Court below ought not to have dismissed the suit for non-prosecution as on 03/07/ 1996 the M.J.C.No.3/95 was listed for hearing. In case of non-appearance, the trial Court could have dismissed the M.J.C.No.3/95 for permission to sue as an indigent person for non-prosecution in which event time ought to have been granted to the plaintiff to pay the Court fee. As appears from the contentions advanced instead of doing this, the suit itself was also dismissed. Thus, on the facts and circumstances of the case, substantial justice has been done. Accordingly, the revision fails and is dismissed.

Sd/-
P.C. Naik
Judge

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